UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

PAINTERS DISTRICT COUNCIL)		
NO. 58, et al.)		
Plaintiffs,)		
v.)	Cause No.:	4:14-cv-01702-AGF
SUTTON PAINTING, LLC and SHEILA K. SUTTON))		
Defendants.)		

MEMORANDUM AND ORDER ON PLAINTIFFS' MOTION FOR ENTRY OF DEFAULT JUDGMENT - AUDIT

This matter is before the Court on plaintiffs' motion for default judgment against defendants Sutton Painting, LLC and Sheila K. Sutton (hereinafter, "Defendants"). Plaintiffs filed this action on October 7, 2013 under the Employee Retirement Security Act, 29 U.S.C. §§ 1132 and 1145, and the Labor Management Relations Act, 29 U.S.C. § 185. The Complaint alleges Defendants have failed to make accounting and to fully pay several employee benefit funds and contributions due under the collective bargaining agreement between Defendants and its employees' union. Plaintiffs are the union and the trustees, sponsors and/or fiduciaries of the various funds.

The Clerk of Court entered an order of default against the Defendants on November 25, 2014.

[Doc. #6].

On December 11, 2014, Plaintiffs filed a Motion seeking a default judgment requiring Defendants to submit to an accounting under the parties trust documents, collective bargaining agreement and common law under ERISA.

When the Clerk of Court has entered default against a defendant, the "allegations of the complaint except as to the amount of damages are taken as true." <u>Mueller v. Jones</u>, No. 2:08CV16 JCH, 2009 WL 500837, at *1 n.2 (E.D. Mo. Feb. 27, 2009) (quoting <u>Brown v. Kenron Aluminum & Court of the Clerk of Court has entered default against a defendant, the "allegations of the complaint except as to the amount of damages are taken as true." <u>Mueller v. Jones</u>, No. 2:08CV16</u>

Glass Corp., 477 F.2d 526, 531 (8th Cir. 1973)). Accordingly, in deciding the present motion for default judgment, the Court accepts as true the factual allegations contained in the plaintiffs' Complaint together with those affidavits presented in the plaintiffs' motion and memorandum in support as they relate to the plaintiffs' damages.

Based on those allegations and affidavits, plaintiffs are entitled to the relief requested.

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' motion for partial default judgment [Doc. #7] is GRANTED. That Defendants shall submit the documents requested for the period September 1, 2013 to the date of this Order to Plaintiffs' attorney within ten (10) days of this Memorandum and Order. Failure to comply with this Order may result in the imposition of sanctions.

December 30,2014

United States Dismet Judge